



SOCIAL SECURITY ADMINISTRATION

20 CFR Part 410

[Docket No. SSA-2012-0012]

RIN 0960-AH48

Removal of Regulations on Black Lung Benefits

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: This final rule removes regulations on the Black Lung program from the Social Security Administration's (SSA) chapter of the Code of Federal Regulations (CFR). The Black Lung Consolidation of Administrative Responsibility Act transferred the responsibility for administering Part B of the Black Lung benefits program from SSA to the Department of Labor (DOL), and we are removing the regulations in recognition of the fact that we are no longer responsible for administering any aspect of the Part B Black Lung program. DOL concurs with this final rule removing the regulations.

DATES: This final rule is effective (INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER).

FOR FURTHER INFORMATION CONTACT: Martin Sussman, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-1767. For information on eligibility or filing for benefits, call our

national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION:

Brief History of SSA's Portion of the Black Lung Part B Program

The Federal Coal Mine Health and Safety Act (FMHSA) of 1969 established the Black Lung program to pay monthly benefits to coal miners, their survivors, and dependents if the miner was disabled by or died due to pneumoconiosis. The FMHSA, as amended, established two program parts. Part B, administered by SSA, governs miners' and survivors' claims filed through June 30, 1973. For those claims awarded, Part B also governs claims filed by certain survivors of these beneficiaries. Part C, administered by DOL, governs all other claims. In 2002, Congress enacted the Black Lung Consolidation of Administrative Responsibility Act (Public Law 107-275), which formally transferred all responsibility for administering the Black Lung program to DOL beginning January 31, 2003.

Thus, because we no longer have responsibility for administering the Black Lung Part B program, we are removing the pertinent regulations from our chapter of the CFR. DOL concurs with this final rule removing these regulations from our chapter of the CFR, and concurs that this action does not affect the substantive rights of individuals claiming benefits under the Black Lung Part B program.

Regulatory Procedures

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 when we develop regulations. Generally, the APA requires that an agency provide prior notice and opportunity for public comment before issuing a final rule. The APA provides exceptions to its notice and public comment procedures when an agency finds good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest.¹

We find that good cause exists for proceeding without prior public notice and comment in this instance. As discussed above, the change we are making in this final rule does not affect the substantive rights of individuals claiming benefits under the Black Lung Part B program. Rather, the change simply reflects Congress' decision in the Black Lung Consolidation of Administrative Responsibility Act to transfer responsibility for administration of the Black Lung Part B program from SSA to DOL. Accordingly, we find that prior public comment would be unnecessary in this instance.

In addition, for the reasons cited above, we also find good cause for dispensing with the 30-day delay in the effective date of this rule.² Since the change we are making to this rule merely recognizes that we are no longer responsible for administering any aspect of the Part B Black Lung program, we find that it is contrary to the public interest

¹ 5 U.S.C. 553(b)(B).

² See 5 U.S.C. 553(d)(3).

to delay the effective date of our rule. Accordingly, we are making this rule effective upon publication.

Executive Order 12866, as supplemented by Executive Order 13563

We have consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Thus, it was not subject to OMB review.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities, as it affects individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

This final rule imposes no reporting or recordkeeping requirements subject to OMB clearance.

Michael J. Astrue,
Commissioner of Social Security.

For the reasons set out in the preamble, under the authority of section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5), and Pub. L. 107-275, we amend 20 CFR chapter III, part 410, as set forth below:

Part 410 [Removed]

1. Remove part 410.

[FR Doc. 2012-7672 Filed 03/29/2012 at 8:45 am; Publication Date: 03/30/2012]